



C.R.P(MD)No.259 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED :08.09.2023

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

C.R.P.(NPD)(MD)No.259 of 2018

and

C.M.P.(MD)No.1157 of 2018

K.S.Thirumalaisamy Reddiyar

... Petitioner

-VS-

1.Malarvizhi

2.Abdul Jabbar

Chithra (died)

3.Ayyappan

4.Meera

5.Karthik @ Ram Mohan

6.Premchand

... Respondents

PRAYER: Civil Revision Petitions are filed under Article 227 of the Constitution of India to set aside the order dated 10.01.2017 passed by the Additional Sub Court, Thanjavur in E.A.No.81 of 2016 in E.P.No.158 of 2010 in O.S.No.87 of 1997.

For Petitioner : Mr.A.Senthil Kumar

For Respondents : No Appearance



C.R.P(MD)No.259 of 2018

WEB COPY

ORDER

The present revision petition has been filed by the decree holder in a suit for specific performance in O.S.No.87 of 1997 on the file of the Additional Sub Court, Thanjavur.

2.On the strength of the specific performance decree, the revision petitioner had filed E.P.No.158 of 2010 for execution of a sale deed. When the said application was pending, one of the judgment debtors namely, Chithra had passed away and her legal heirs, viz., her husband, Ramamoorthy, son Ayyappan, daughters Meera and Malarvizhi were impleaded.

3.While so, one of the legal legal heirs of Chithra, namely Ramamoorthy has passed away. Thereafter, daughter of Chithra, namely Malarvizhi had filed E.A.No.81 of 2016 to implead two third parties namely Karthick @ Ram Mohan and Premchand on the ground that her father had an illicit relationship with one Premavathi, through whom the proposed parties were born. In the interest of justice, she sought to implead them.



C.R.P(MD)No.259 of 2018

WEB COPY

4.The revision petitioners /decree holders strongly opposed the said application on the ground that they are not the necessary parties and the application has been filed only to drag on the proceedings.

5.The trial Court after considering the submissions on either side had allowed the said application on the ground that in memorandum of appeal grounds in A.S.No.53 of 2003 on the file of the Additional District Court, Thanjavur, the proposed parties were impleaded as legal heirs of the deceased Ramamoorthy.

6.I have carefully considered the submissions and perused the material records.

7.One of the judgment debtors, namely Chithra had passed away and after her death, her husband, two daughters and her son have been impleaded. Even assuming that Karthik @ Ram Mohan and Premchand are the legal heirs of Padmavathi, they can never become legal heirs of the deceased Chithra. Therefore, the trial Court was not right in allowing the



C.R.P(MD)No.259 of 2018

WEB COPY

impleading application. Therefore, the order impugned in the revision petition is set aside and this Civil Revision Petition is allowed. The Execution Court is directed to dispose of the execution proceedings on or before 31.12.2023. No costs. Consequently, connected miscellaneous petition is closed.

08.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
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To

The Additional Sub Court,
Thanjavur.



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C.R.P(MD)No.259 of 2018

R.VIJAYAKUMAR,J.

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C.R.P.(NPD)(MD)No.259 of 2018

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